

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSHUA G. FRANKLIN SR.,

Plaintiff,

v.

JOHN ACKERMAN, et al.,

Defendant.

CASE NO. 3:21-cv-05071-RSM-BAT

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Having reviewed the Report and Recommendation of the Honorable Brian A. Tsuchida, United States Magistrate Judge, any objections or responses to that, and the remaining record, the Court finds and ORDERS:

(1) The Court ADOPTS the Report and Recommendation.

(2) Defendants' Motion to Dismiss (Dkt. 17) is GRANTED in part and DENIED in part. Plaintiff has failed to state a claim upon which relief may be granted with respect to his Due Process claims related to the grievance process and those claims are dismissed with prejudice against all Defendants. Plaintiff has failed to state a claim upon which relief may be granted with respect to his constitutional claims of inadequate medical care, and his state law claims of intentional infliction of emotional distress and medical negligence, alleged against Defendants

1 John Ackerman and C. Hackney, and those claim are dismissed without prejudice. The dismissed
2 claims are dismissed without leave to amend. Plaintiff has stated a claim with respect to his
3 constitutional claims of inadequate medical care and his state law claims of intentional infliction
4 of emotional distress and negligence, alleged against Defendants K. Vandenberg, A. Rice, M.
5 Paulus, and Kerri Taft, and those claims shall proceed.

6 (3) The action is referred back to Magistrate Judge Brian A. Tsuchida for further
7 proceedings on the remaining claims.

8 (4) The Clerk is directed to send copies of this Order to the parties and to Judge
9 Tsuchida.

10 DATED this 21st day of September, 2021.

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14 RICARDO S. MARTINEZ
15 CHIEF UNITED STATES DISTRICT JUDGE
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